

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHEN M. GRAVES
and
MINORU ISHIHARADA

Appeal No. 2006-3275
Application 10/082,833
Technology Center 2800

Mailed: August 18, 2008

Before DALE M. SHAW, *Chief Appeals Administrator*.

SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on December 12, 2005.

APPEAL BRIEF, STATUS OF CLAIMS

The "Status of claims" provided on page 4 of the Appeal Brief is deficient because the status of all the claims has not been identified.

37 CFR 41.37(c)(1) (2005) states:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section

.....

(iii) *Status of Claims*. A statement of the status of all the claims in the proceeding (*e.g.*, rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

Correction is required.

APPEAL BRIEF, SUMMARY OF CLAIMED SUBJECT MATTER

According to 37 CFR § 41.37(c) (v), an Appeal Brief must include the following:

(v) *Summary Of Claimed Subject Matter*. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on page 4 of the Appeal Brief filed December 12, 2005 is deficient because it does not map the independent claims to the specification. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner:

- 1) to hold the Appeal Brief filed on December 12, 2005 defective, as required by 37 CFR § 41.37(d);
- 2) to notify appellants to file a revised Appeal Brief which corrects the “Status of claims” and “Summary of claimed subject matter” sections;
- 3) for consideration of said revised Appeal Brief; and
- 4) for such further action as may be appropriate.

dms:psb

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